

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company to Recover Costs Recorded in the Catastrophic Event Memorandum Account Pursuant to Public Utilities Code Section 454.9 Associated with Certain Declared Disasters Between August 2009 and March 2011 (U39E).	Application 11-09-014 (Filed September 21, 2011)
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DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 13-06-007

Claimant: The Utility Reform Network	For contribution to D. 13-06-007
Claimed (\$): \$45,370.08	Awarded (\$): \$46,255.17
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: Darwin E. Farrar

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	The Decision approves a Settlement Agreement between PG&E, DRA and TURN that recommends the recovery of a portion of the costs recorded in the Catastrophic Event Memorandum Account ("CEMA") for activities related to seven storms, fires and an earthquake between August 2009 and March 2011. The settlement reduces recoverable expenses by \$5.0 million and capital costs by \$2.5 million from the amounts requested by PG&E.
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	January 31, 2012	Verified
2. Other Specified Date for NOI:	n/a	
3. Date NOI Filed:	March 1, 2012	Verified
4. Was the NOI timely filed?		Yes

Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.11-11-008	Verified
6. Date of ALJ ruling:	1/3/2012	Verified
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.11-11-008	Verified
10. Date of ALJ ruling:	1/3/2012	Verified
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.13-06-007	Verified
14. Date of Issuance of Final Order or Decision:	July 3, 2013	Verified
15. File date of compensation request:	September 3, 2013	Verified
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION

A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).

Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
CEMA eligible costs – Expenses TURN recommended an expense reduction of \$6.5 million due to non-incremental straight time labor costs, including \$893,000 in customer care straight time labor costs. The Settlement Agreement adopts an expense reduction of \$5.0 million, including a reduction of customer care costs by \$1.33 million.	Testimony of John Sugar at 1-4. D.13-06-007 at 3, 8.	Yes
CEMA eligible costs – capital The Settlement Agreement reduces eligible capital costs by \$2.5 million.	D.13-06-007 at 9.	Yes

<p>Labor Cost Accounting – Double-time and Over Time Labor</p> <p>TURN conducted extensive analyses of labor costs for overtime and double-time in order to identify “incremental costs.” TURN found that PG&E’s extensive use of overtime and double time in normal operations, combined with its method of accounting, made such an analysis difficult. TURN recommended an additional disallowance of about \$0.3 million of double-time and overtime labor costs.</p> <p>The Settlement Agreement requires PG&E to account for all labor at applicable pay rates in its next CEMA application in order to make such an analysis possible.</p>	<p>Testimony of John Sugar, p. 5-13.</p> <p>D.13-06-007 at 9.</p>	<p>Yes</p>
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA)¹ a party to the proceeding?	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	No	Verified
c. If so, provide name of other parties:		N/A
<p>d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</p> <p>TURN coordinated with the DRA. TURN’s expert witness, John Sugar, communicated with DRA staff in order to minimize duplication. As a result, TURN focused its analysis on the evaluation of incremental overtime and double-time for expenses. TURN did not address capital costs.</p> <p>TURN's compensation in this proceeding should not be reduced for duplication of the showings of other parties. TURN took reasonable steps to minimize duplication and to ensure that when it did happen, our work served to complement and assist the showing of the DRA.</p>		Verified

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

Any incidental duplication that may have occurred here was more than offset by TURN's unique contribution to the proceeding. Under these circumstances, no reduction to our compensation due to duplication is warranted given the standard adopted by the Commission in D.03-03-031.	
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C. Additional Comments on Part II:

Claimant	Comment
Substantial Contribution to Settlement Negotiations	While the Commission has held that mere "participation in settlement negotiations" is not sufficient to guarantee productive participation, it has recognized that active participation in settlements does justify compensation, especially when it contributes to the development of a record that assists the Commission. D.00-07-046, <i>mimeo.</i> at 6; D.00-07-015, <i>mimeo.</i> at 5. TURN's substantial contributions to the Settlement adopted in D.13-06-027 can be inferred by comparing TURN's analyses and arguments, as presented in the testimony of John Sugar and as summarized in the decision, with the actual terms of the Settlement Agreement.

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§§ 1801 & 1806):**

a. Intervenor's Claim of Cost Reasonableness:	CPUC Verified
TURN's participation contributed to ratepayer financial benefits due to a reduction in revenue requirements resulting from a reduction in CEMA eligible expenses (\$5.0 million) and capital costs (\$2.5 million). TURN's position on certain issues overlapped with those of the DRA, so that TURN cannot precisely quantify the benefits of our participation. However, while the DRA recommended disallowance of straight time costs as a matter of policy, TURN provided additional analyses supporting the disallowance of certain straight-time costs (such as customer care) and also provided analyses and arguments for disallowing certain double-time and over-time expenses. Those recommendations are reflected in certain aspects of the Settlement, such as, for example, the disallowance of customer care expenses and the provisions for future accounting of labor over-time and double-time costs.	Verified
b. Reasonableness of Hours Claimed.	
TURN's request in this case includes approximately 20 hours of attorney time, most of which was devoted to settlement negotiations. TURN's request includes approximately 180 hours of consultant time. Such an amount is larger than typical given the revenue requirements at stake in this case. However, Mr. Sugar had to perform extensive data analyses in order to determine how PG&E's standard labor cost accounting impacts the determination of what constitutes "incremental labor costs" for	

<p>purposes of the CEMA proceeding. Due to the fact that PG&E uses over-time and double-time labor extensively in normal operations (in electric distribution, generation and customer care operations), and due to PG&E's method of cost accounting for labor costs, Mr. Sugar had to perform extensive analyses to tease out the "incremental" impacts of CEMA activities upon over-time and double-time labor costs.</p> <p>Mr. Sugar's analyses contributed to TURN's recommendations concerning expense disallowances, and contributed to the settlement negotiations. Moreover, Mr. Sugar's analyses contributed to a settlement resolution concerning future cost accounting, which should make the evaluation of labor costs in future CEMA proceedings more expedient. Thus, TURN suggests that the relatively significant amount of consulting time in this proceeding was warranted due to the nature of the analyses, and also resulted in a favorable outcome that will benefit ratepayers both in this case and in future proceedings.</p>	Verified
<p>c. Allocation of Hours by Issue</p> <p>TURN typically allocates its work activities on an issue-by-issue basis in its compensation requests. TURN also uses activity-based codes for work that is not issue-specific or spans multiple issues.</p> <p>However, in this proceeding TURN's work activities all addressed a single fundamental issue – the identification of "incremental costs" eligible for CEMA recovery. Therefore TURN did not allocate work by issue category. TURN has, however, presented its hourly records in a manner that allows the Commission to review the amount of hours devoted to particular activities. The information in Appendix A reflects the hours devoted to discovery, data analyses, testimony preparation and settlement negotiations.</p> <p>TURN submits that all of the hours claimed were reasonably and efficiently expended and should be fully compensated.</p>	Verified

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hour s	Rate	Total \$
Marcel Hawiger	2011	2.75	\$350.00	D12-05-034 at 10.	\$962.50	2.75	\$350.00 ²	\$962.50
Marcel Hawiger	2012	16.5	\$375.00	D.13-08-022 at 33	\$6,187.50	16.5	\$375.00 ³	\$6,187.50

² Adopted by Decision (D.) 11-09-014.

³ Adopted by Decision (D.) 13-12-028.

John Sugar	2012	177.02	\$200.00	D.13-08-022	\$35,404.00	177.02	\$205.00 ⁴	\$36,289.10
William Marcus	2011	3.25	\$250.00	D.13-05-008	\$812.50	3.25	\$250.00 ⁵	\$812.50
William Marcus	2012	3.92	\$260.00	D.13-08-022	\$1,019.20	3.92	\$260.00 ⁶	\$1,019.20
	Subtotal:				\$44,385.70	Subtotal:		\$45,270.80
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Marcel Hawiger	2012	.25	\$187.50	D.13-08-022, p. 33	\$46.87	.25	\$187.50	\$46.87
Marcel Hawiger	2013	5.0	\$187.50	Use 2012 rate	\$937.50	5.0	\$187.50	\$937.50
	Subtotal:				\$984.37	Subtotal:		\$984.37
TOTAL REQUEST \$:					\$45,370.08	TOTAL AWARD \$:		\$46,255.17
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Reasonable claim preparation time typically compensated at ½ of preparer’s normal hourly rate</p>								
Attorney		Date Admitted to CA BAR⁷		Member Number		Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation		
Marcel Hawiger		1/23/1998		194244		N		

⁴ Adopted by Decision (D.) 13-08-022.

⁵ Adopted by Decision (D.) 13-12-028.

⁶ Adopted by Decision (D.) 14-03-029.

⁷ This information may be obtained at: <http://www.calbar.ca.gov/>.

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
1	Attachment 1: Certificate of Service
2	Attachment 2: TURN's Hours Associated With A.11-09-014
Time Keeping	A daily listing of the specific tasks performed by attorney Hawiger, and by expert witnesses Marcus and Sugar, is set forth in Appendix A. TURN's attorneys and expert witnesses maintained detailed contemporaneous time records indicating the number of hours devoted to work on this case. In preparing this appendix, Mr. Hawiger reviewed all of the recorded hours devoted to this proceeding and included only those that were reasonable for the underlying task.
Hourly Rates	All hourly rates used in this compensation request have been previously authorized. TURN used the 2012 hourly rate for Mr. Hawiger for hours in 2013 devoted to the compensation request. TURN reserves the right to seek a higher 2013 hourly rate for Mr. Hawiger in future compensation requests. All consultant hourly rates represent the actual rate at which JBS Energy, Inc. billed TURN for work performed on this proceeding.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived	Yes

FINDINGS OF FACT

1. The Utility Reform Network has made a substantial contribution to Decision (D.) 13-06-007.
2. The requested hourly rates for The Utility Reform Network's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$46,255.17.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. The Utility Reform Network is awarded \$46,255.17.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay The Utility Reform Network's total award. Payment of the award shall include interest at the rate earned on prime, three-month, non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning November 17, 2013, the 75th day after the filing of The Utility Reform Network's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX
Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision:	D1306007		
Proceeding:	A1109014		
Author:	ALJ Farrar		
Payer:	Pacific Gas and Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	09/03/13	\$45,370.08	\$46,255.17	N/A	N/A

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Marcel	Hawiger	Attorney	The Utility Reform Network	\$350.00	2011	\$350.00
Marcel	Hawiger	Attorney	The Utility Reform Network	\$375.00	2012	\$375.00
William	Marcus	Expert	The Utility Reform Network	\$250.00	2011	\$250.00
William	Marcus	Expert	The Utility Reform Network	\$260.00	2012	\$260.00
John	Sugar	Expert	The Utility Reform Network	\$200.00	2012	\$205.00

(End of Appendix)